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Attorneys for Defendants

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

Arthur J. Gallagher & Co.,

Plaintiff,
v.

Don Tarantino, an individual; Bernadette
Heater, an individual; Michael Machette,
an individual; Spencer Brush, an
individual,

Defendants.

Case No. 3:20-cv-05505 EMC

**Defendants' Administrative Motion
to Consider Whether Another
Party's Material Should Be Sealed**

[Made under Local Rule 79-5(f) and filed
in connection with Defendants' Reply in
Support of Motion for Partial Summary
Judgment, filed concurrently herewith]

Complaint Filed: August 7, 2020

1 **Motion**

2 Pursuant to Local Rule 79-5(f), Defendants Don Tarantino, Bernadette Heater,
3 Michael Machette and Spencer Brush (“Defendants”) hereby move for consideration of
4 whether material should be filed under seal.

5 The material at issue consists of the following excerpts of testimony from the final
6 Reporter’s Transcript of the March 17, 2022 deposition of Defendant Don Tarantino and
7 of the April 1, 2022 deposition of Gallagher’s Shasa Barbour. The pertinent cited excerpts
8 from the Tarantino deposition are:

- 9 ▪ Page 106, lines 19-21
- 10 ▪ Page 106, lines 24-25
- 11 ▪ Page 107, lines 2-3
- 12 ▪ Page 107, lines 8-9
- 13 ▪ Page 107, lines 18-21
- 14 ▪ Page 108, lines 4-7

15 The pertinent cited excerpts from the Barbour deposition are:

- 16 ▪ Page 58, lines 20-25
- 17 ▪ Page 59, lines 1-21
- 18 ▪ Page 61, lines 24-25
- 19 ▪ Page 62, lines 1-5
- 20 ▪ Page 91, lines 20-25

21 Plaintiff designated these portions of the transcripts as “Highly Confidential—
22 Attorney’s Eyes Only” under the Stipulated Protective Order (ECF No. 60). Defendants
23 cited the above-referenced excerpts in their Reply in support of Defendants’ Motion for
24 Partial Summary Judgment (filed on April 11, 2022, concurrently with the filing of this
25 Administrative Motion), and filed the excerpts from the Tarantino deposition as Exhibit 1
26 to the supporting declaration of Seth M. Gerber, and the excerpts from the Barbour
27 deposition as Exhibit 5.

1 Defendants understand that Gallagher, under Local Rule 79-5(f)(3), within seven
2 days of the filing of this motion, must file a statement under Local Rule 79-5(c) justifying
3 its designation of the above-referenced excerpts as Highly Confidential—Attorney’s Eyes
4 Only.

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6
7 Respectfully submitted,
8 DATED: April 14, 2022 MORGAN, LEWIS & BOCKIUS LLP

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10 By: /s/ Seth M. Gerber
11 Seth M. Gerber
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1 **Certificate of Service**

2 I hereby certify that, on April 14, 2022, the foregoing document entitled
3 **“Defendants’ Administrative Motion to Consider Whether Another Party’s**
4 **Material Should Be Sealed”** was filed via the Case Management/Electronic Case Filing
5 (CM/ECF) system, with service to be made on all parties deemed to have consented to
6 electronic service via the automated generation and e-mailing of a Notice of Electronic
7 Filing (NEF) by the CM/ECF system.

8
9
10 Dated: April 14, 2022

/s/ Seth M. Gerber
Seth M. Gerber